

Public Utility Commission of Texas

Memorandum

TO: Interested Parties

FROM: Julia Harvey, Competitive Markets Division
Mandeep Chatha, Legal Division
Jay Stone, Administration and Finance Division

DATE: October 19, 2015

RE: Project No. 45189 – Strawman Proposal – Rulemaking Amending PUC Substantive Rules to Implement HB 1101, 84th Legislative Session, Related to the Elimination of the System Benefit Fund Balance

This rulemaking project was initiated to conform PUC Substantive Rules to HB 1101, 84th Legislative Session,¹ which requires the elimination of the System Benefit Fund (SBF) balance. The attached strawman suggests an approach to accomplish this objective. Specifically, Staff's strawman proposes to delete Subchapter Q, Chapter 25, Texas Administrative Code, which contains sections associated with electric low-income discounts and other programs funded by the SBF (including §§25.451, 25.453, 25.454, 25.455, and 25.457). The strawman also proposes a new §25.499, to consider whether to retain provisions for benefits from §25.454 that are not dependent on SBF funding. These additional benefits include late penalty waivers and deposit installment allowances, pursuant to §25.480(c) and §25.478(e)(3), respectively.

New language proposed in §25.499 relates to determining customer eligibility for these additional benefits. As a result of the elimination of the SBF (and thus funding for the low-income discount program), customers will no longer be identified as eligible for late penalty waivers and deposit installment allowances by way of their eligibility for the low-income discount. Therefore, to maintain a process for determining eligibility, the strawman suggests language to incorporate the criteria for identifying eligible low-income customers associated with the Lifeline Discount Program described in §26.412. The strawman also proposes to amend §§25.480(c), 25.478(e)(3), and 25.5(66) to remove references to the SBF.

Interested parties are invited to submit written comments on this strawman by November 2, 2015 in the manner described in the attached notice. A subsequent workshop will be held at the Public Utility Commission offices on November 16, 2015 to provide a forum for further comment. A workshop agenda will be filed in Project No. 45189 by November 9, 2015.

¹ Extending the Period Over Which the Balance of the System Benefit Fund is to be Eliminated, 84th Leg., R.S., ch. 706, 2015 Tex. Sess. Law Serv. 706 (West) (to be codified at Tex. Util. Code Ann. secs. 39.903 and 39.9039).

PROJECT NO. 45189

RULEMAKING AMENDING PUC	§	
SUBSTANTIVE RULES TO	§	PUBLIC UTILITY COMMISSION
IMPLEMENT HB 1101, 84TH	§	
LEGISLATIVE SESSION, RELATED	§	
TO THE ELIMINATION OF THE	§	OF TEXAS
SYSTEM BENEFIT FUND BALANCE	§	

STAFF STRAWMAN PROPOSAL

The Public Utility Commission of Texas Staff proposes to repeal Subchapter Q, Chapter 25 Texas Administrative Code, including PUC Subst. Rs. §§25.451, 25.453, 25.454, 25.455, and 25.457, to reflect the cessation of the System Benefit Fund (SBF) as required by HB 1101, 84th Legislative Session. In consideration of alternatives for preserving the two ancillary low-income benefits described in Subchapter Q, including late fee waivers (pursuant to §25.480(c)) and deposit installment allowances (pursuant §25.478(e)(3)), Staff's strawman proposes a new §25.499. To update language to remove references to the SBF, the strawman additionally amends §§25.480(c), 25.478(e)(3), and 25.5(66), as shown in the redline below.

Staff requests that interested parties submit written comments on this strawman by 3:00 pm, November 2, 2015. Responses may be filed by submitting 16 copies to the Commission's Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, P.O. Box 13326, Austin, Texas 78711-3326. All responses should reference Project No. 45189.

Questions concerning this project should be referred to Julia Harvey at (512) 936-7371 or Mandeep Chatha at (512) 936-7163.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter Q. SYSTEM BENEFIT FUND. (Repealed.)

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§25.451. Administration of the System Benefit Fund.

(Repealed.)

§25.453. Targeted Energy Efficiency Programs.

(Repealed.)

§25.454. Rate Reduction Program.

(Repealed.)

§25.455. One-Time Bill Payment Assistance Program.

(Repealed.)

§25.457. Implementation of the System Benefit Fund by the Municipally Owned Utilities and Electric Cooperatives.

(Repealed.)

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter R. CUSTOMER PROTECTION RULES FOR RETAIL ELECTRIC SERVICE.

§25.499. Late Penalty Waivers and Deposit Installment Benefits.

(a) **Purpose.** The purpose of this section is to specify eligibility requirements and processes for late penalty waivers and deposit installment benefits.

(b) **Application.** This section applies to retail electric providers (REPs) that provide electric service in an area that has been opened to customer choice.

(c) **Definitions.** The following words and terms when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Low-Income Discount Administrator (LIDA)** — A third-party vendor with whom the commission has a contract to administer the Lifeline Service Program as described in §26.412 of this title (relating to Lifeline Service Program).

(2) **REP** — For the purposes of this section, a retail electric provider and an MOU or Coop that provides retail electric service in an area that has been opened to customer choice.

(d) **Customer eligibility.** Customers identified by LIDA as qualifying low-income customers pursuant to §26.412(d) of this title are eligible for late penalty waivers as specified in §25.480(c) of this title (relating to Bill Payment and Adjustment) and deposit installment benefits as specified in §25.478(e)(3) of this title (relating to Credit Requirements and Deposits).

(e) **Responsibilities.** In addition to the requirements established in this section, program responsibilities for LIDA may be established in the commission's contract with LIDA.

(1) **LIDA shall:**

(A) receive customer lists from REPs on a monthly basis through data transfer;

(B) establish a list of eligible customers by comparing customer lists received from REPs with the list of customers qualifying for the Lifeline Service Program and identifying customer records that reasonably match;

(C) make available to each REP, on a date prescribed by the commission on a monthly basis, a list of low-income customers eligible to receive late penalty waivers and deposit installment benefits;

(D) answer customer inquiries and provide information to customers regarding eligibility for late penalty waivers and deposit installment benefits;

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(E) resolve customer enrollment problems, including issues concerning customer eligibility and the failure to provide late penalty waivers and deposit installment benefits to customers who believe they are eligible; and

(F) protect the confidentiality of the customer information provided by the REPs.

(2) A REP shall:

(A) provide residential customer information to LIDA through data transfer on a date prescribed by the commission on a monthly basis. The customer information shall include, to the greatest extent possible, each full name of the primary and secondary customer on each account, billing and service addresses, primary and secondary social security numbers, primary and secondary telephone numbers, Electric Service Identifier (ESI ID), service provider account number, and premise code;

(B) retrieve from LIDA the list of customers who are eligible to receive late penalty waivers and deposit installment benefits;

(C) assist LIDA in working to resolve issues concerning customer eligibility, including the failure to provide late fee waivers and deposit installment benefits to customers who believe they are eligible; this obligation requires the REP to employ best efforts to avoid and resolve issues, including training call center personnel on general processes and information, and assigning problem resolution staff to work with LIDA on problems for which LIDA does not have sufficient information to resolve; and

(D) provide other information and assistance, upon request of the commission, to assist in the implementation of this section.

(f) Confidentiality of information.

(1) All data transfers from a REP to LIDA pursuant to this section shall be conducted under the terms and conditions of a standard confidentiality agreement to protect customer privacy and the REP's competitively sensitive information.

(2) LIDA may use information obtained pursuant to this section only for purposes prescribed by commission rule.

(g) Voluntary Programs. Nothing in this section is intended to impair a REP's ability to voluntarily provide additional benefits, including low-income discounts, to eligible low-income customers.

(1) The list of low-income customers who are eligible for late fee waivers or deposit installment benefits pursuant to this section, or other non-discriminatory criteria, may be utilized by a REP as evidence of a customer's eligibility for the REP's voluntary low-income program, if offered.

(2) In the event a REP chooses to voluntarily offer a discount or other benefits to low-income customers, the REP shall treat any information obtained regarding the customer's financial status or enrollment

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1 in a government program as confidential information and shall not disclose the information to any
2 other party or use the information for any purpose other than enrollment in a voluntary low-income
3 program.
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§25.478. Credit Requirements and Deposits.

(a) - (d) (No Change.)

(e) **Amount of deposit.**

(1) The total of all deposits, initial and additional, required by a REP from any residential customer or applicant:

(A) shall not exceed an amount equivalent to the greater of:

(i) one-fifth of the customer's estimated annual billing; or

(ii) the sum of the estimated billings for the next two months.

(B) A REP may base the estimated annual billing for initial deposits for applicants on a reasonable estimate of average usage for the customer class. If a REP requests additional or initial deposits from existing customers, the REP shall base the estimated annual billing on the customer's actual historical usage, to the extent that the historical usage is available. After 12 months of service with a REP, a customer may request that a REP recalculate the required deposit based on actual historical usage of the customer.

(2) For the purpose of determining the amount of the deposit, the estimated billings shall include only charges for electric service that are disclosed in the REP's terms of service document provided to the customer or applicant.

(3) If a customer or applicant qualifies for deposit installment benefits pursuant to §25.499 of this title (relating to Late Penalty Waivers and Deposit Installment Benefits) ~~the rate reduction program under §25.454 of this title (relating to Rate Reduction Program)~~, then such customer or applicant shall be eligible to pay any deposit that exceeds \$50 in two equal installments. Notice of this option for eligible customers ~~eligible for the rate reduction program~~ shall be included in any written notice to a customer requesting a deposit. The customer shall have the obligation of providing sufficient information to the REP to demonstrate ~~that the customer's eligibility is eligible for the rate reduction program.~~ The first installment shall be due no sooner than ten days, and the second installment no sooner than 40 days, after the issuance of written notification to the applicant of the deposit requirement.

(f) – (l) (No Change.)

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§25.480. Bill Payment and Adjustments.

(a) – (b) (No Change.)

(c) **Penalty on delinquent bills for electric service.**

A REP may charge a one-time penalty not to exceed 5.0% on a delinquent bill for electric service. No such penalty shall apply to residential or small commercial customers served by the provider of last resort (POLR), or to customers receiving a late penalty waiver ~~low-income discount~~ pursuant to §25.499 of this title (relating to Late Penalty Waivers and Deposit Installment Benefits), ~~the Public Utility Regulatory Act (PURA) §39.903(h)~~. The one-time penalty, not to exceed 5.0%, may not be applied to any balance to which the penalty has already been applied.

(d) – (n) (No Change.)

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Subchapter A. GENERAL PROVISIONS.

§25.5. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) - (65) (No Change.)

(66) **Low-Income Discount Administrator (LIDA)** — A third-party administrator contracted by the commission to administer the Lifeline Service Program as described in §26.412 of this title (relating to Lifeline Service Program). ~~aspects of the rate reduction program established under Public Utility Regulatory Act §39.903.~~

(67) – (144) (No Change.)